

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FRANCISCO FERNANDEZ, 98R6121,

Plaintiff,

-v-

DECISION AND ORDER
06-CV-0506E(Sr)

J. CALLENS, Correction Officer; C. CZARNECKI,
Correction Officer; S LAMBERT, Correction Sergeant;
T. SCHOELLKOPF, Hearing Officer; Doctor LEVITT;
Nurse ROBERT STACHOWSKY; and DONALD
SELSKY, Director, Special Housing Units/Inmate
Discipline; Sued in their individual capacities;

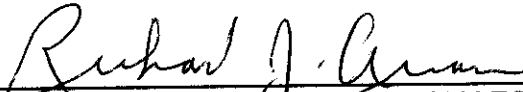
Defendants.

Plaintiff *pro se* Francisco Fernandez was directed by Order dated October 4, 2006 to amend his complaint to clarify whether that portion of the sentence that recommended that he lose "good time" credits has been overturned. His amended complaint attaches the decision of the New York State Court that expunged the good time sanction, and also makes clear that he is suing the defendants only in their official capacities. These concerns of the Court having been addressed, the Clerk of the Court is directed to file plaintiff's papers, and to cause the United States Marshal to serve copies of the Summons, Amended Complaint, and this Order upon the named defendants without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's

favor. The Clerk is also directed to correct the caption on the Court's Docket Sheet to reflect that the defendants are being sued in their individual capacities.

Pursuant to 42 U.S.C. § 1997e(g)(2), the defendants are directed to answer the complaint.

IT IS SO ORDERED.



HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

Dated: Dec. 14, 2006